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REMARKS

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3 1. The Office Action of March 30, 2005 is hereby acknowledged. This
4 Amendment Under 37 C.F.R. § 1.111 is being mailed by Express Mail, Mail Label
5 No. EV 593947345 US, addressed to Commissioner for Patents, P.O. Box 1450,
6 Alexandria, Virginia 22313-1450 on May 27, 2005. The shortened statutory
7 period of three (3) months time period for response to this Office Action expires on
8 June 30, 2005. Therefore, this amendment this Amendment is timely filed. In the
9 event that the Commissioner for Patents should determine that any extension of
10 time is required for this Amendment to be timely filed and an appropriate fee is due
11 for that extension of time, then the Commissioner for Patents is hereby authorized
12 to charge Deposit Account Number 18-2222 for such appropriate fee.

13

14 2. The original '104 Application had a total of 9 claims wherein 3 were
15 independent claims. After the restriction requirement by the Examiner, only 3
16 claims of invention remain in the case of which there is only one independent
17 claim. Therefore, the '104 Application now has a total of 3 total claims wherein
18 one is an independent claims. Therefore, no additional fee is due. In the event that
19 the Commissioner for Patents should determine that any additional fee is due, then
20 the Commissioner for Patents is hereby authorized to charge Deposit Account
21 Number 18-2222 for the appropriate fee.

22

23 4. The Patent Examiner's detailed analysis of the '104 Application is
24 acknowledged with appreciation. The Examiner's comments concerning the
25 drawings have been noted. With respect to the character reference 16 for the picket
26 fence, the character reference 16 for the picket fence with points has been left in
27 Figures 1 and 2 and the character reference for the picket fence that has no pointed
28 ends has been changed to 16(a). Proposed drawing corrections to Figures 3 and

1 6(b) and 6(c) are presented for the Examiner's approval and once the Examiner
2 approves it, formal corrected drawings will be submitted. The text has also been
3 modified to show that the pickets 16 have pointed ends. This appears on Page 10,
4 line 23. Also, beginning on Page 11, line 2, the additional sentence in the text has
5 been added that "In addition, pickets without pointed ends, numbered 16(a) as
6 illustrated in Figures 3, 6(b) and 6(c), are also within the spirit and scope of the
7 present invention.

8 The Examiner's statement concerning the character reference 10 to designate
9 a fence with one configuration (in Figure 1) and a second configuration in Figures
10 6(c) and a third configuration Figure 6(g) have been noted. The character
11 reference 10 has been left unchanged for Figure 1. For Figure 6(e), the character
12 reference has been changed to 10(a). Through this amendment, this is discussed in
13 the text on Lines 7 and 8 on Page 11. With respect to Figure 6(g), the character
14 reference has now been changed to 10(b) and this has been discussed in newly
15 added paragraphs beginning on Line 27 on Page 16. Again, proposed drawing
16 corrections for Figures 6(e) and 6(g) are also submitted herewith an once the
17 Examiner approves these proposed drawing changes, formal drawings will be
18 submitted. The changes only involve simple additional letters added to the various
19 character designations. All of the remaining figures in each of the sheets of
20 drawings have remained unchanged.

21 In accordance with the Examiner's directive, the words "replacement sheet"
22 have been typed into the page header for the two sheets of drawings which are
23 resubmitted. For the sake of completeness, the Applicant is submitting the entire
24 10 sheets which have 12 figures on them but only Sheet 3 which has Figure 3
25 thereon and has the post without points designated as 16(a) and Sheet 5 which has
26 Figures 6(a), 6(b), 6(c) which has the post of 6(b) designated as 16(a) and the post
27 of 6(e) designated as 16(a) and Sheet 6 which has Figures 6(e), 6(f) and 6(c)
28 which has the variations on the fence is numbered 10(a) in Figure 6(e) and 10(b) in

1 Figure 6(g) have the words “Replacement Sheet” typed as a header.

2 Therefore, all of the Examiner’s directives concerning the drawing
3 corrections have been made.

4

5 5. Concerning the Examiner’s comments concerning the proper format for
6 the Abstract, the Applicant has amended the Abstract as set forth above to remove
7 the excess number of words so that the Abstract falls within the limitation of 150
8 words. Therefore, this directive has been complied with.

9

10 6. Concerning the claim objections, the Examiner’s comments concerning
11 the objections to Claim 1 have been noted and all of the modifications required by
12 the Examiner have been made. Specifically, in what was formerly Line 7,
13 “corresponding” has been changed to “the”, in formerly Line 10, “by” has been
14 changed to “to”, in formerly Line 12, “corresponding” has been eliminated”, in
15 former Line 16, “a respective” has been deleted and in former Line 28, the word
16 “as” has been deleted. Therefore, the directives concerning the claim objections
17 have been complied with.

18

19 7. The Applicant has very carefully studied the Examiner’s rejections under
20 35 U.S.C. § 103. The primary reference that the Examiner has cited is Larsen.
21 Larsen discloses a modular picket fence which comprises at least two spaced apart
22 vertical posts and at least two spaced apart horizontal tubular rails. However, the
23 spring clip attaching mechanism of Larsen is very substantially different from the
24 much improved spring clip attaching mechanism of the present invention. In
25 addition to that, the rails of Larsen have an open channel at the bottom, whereas
26 the rails of the present invention are closed on both the top and the bottom with
27 only the apertures extending therethrough to receive the picket fence. Therefore,
28 these differences have been added into the claims. Specifically, with respect to

1 Claim 1, Claim element (b) now more clearly defines the rails including having an
2 enclosed upper surface with a plurality of spaced apart apertures and an enclosed
3 lower surface with a plurality of spaced apart apertures, a respective aperture in an
4 upper surface aligned with a respective aperture in a lower surface.

5 With respect to Claim element (d), with respect to the transverse apertures,
6 an additional feature saying that each aperture having a locking tongue extending
7 into the aperture has been added at the end.

8 With respect to the spring clip mechanism, the feature that each ramp side
9 has an opening which receives the corresponding locking tongue has been added
10 and also the feature that the spring clip is secured to the vertical picket by means of
11 a locking tongue received within the opening in the ramp side and each ramp side
12 protrudes through the oppositely disposed openings has been added.

13 The detailed features of the locking mechanism have been added in great
14 detail in final Claim element (f) wherein additional wording stating that for the
15 upper horizontal rail, the locking tongue engages the opening in the ramp side of
16 the stopper so that the ramp side of the stopper rests upon the interior of the lower
17 surface and the right angle side is compressed against the interior wall of the
18 vertical picket and for the lower horizontal rail, the locking tongue engages the
19 opening in the ramp side of the stopper so that the ramp side of the stopper rests
20 underneath the interior of the upper surface and the right angle side is compressed
21 against the interior wall of the vertical picket. There is full support for these
22 additions in the patent text wherein the original text support is on Page 15, Lines
23 24 through 27, and Page 16, Lines 1 through 25, and also as fully shown and
24 illustrated in Figures 8, 9(a), 9(b) and 10(a).

25 An examination of the Larsen reference shows that the spring clip
26 mechanism of Larsen is totally different. The spring clip mechanism of the present
27 invention is a much stronger, more secure spring clip because the tongue from the
28 picket received within the opening in the ramp side of the stopper provides for a

1 much more secure attachment which then causes the stopper to rest within the rail
2 and protrude out the picket which has the right angle side compressed against the
3 interior wall of the picket. This is a much stronger support than the weaker support
4 of the Larsen reference wherein as shown in Figure 4, the spring clip only has two
5 oppositely disposed pins 51 which are inserted in slots 34 within the rail, as
6 illustrated in Figure 6(b). This is a much weaker, less strong support as the picket
7 can more easily come loose from the horizontal rail. The spring clip mechanism of
8 the present invention is a much stronger, more secure mechanism for retaining the
9 picket within the rail and is certainly totally different from the nature of the spring
10 clip mechanism illustrated in Larsen.

11 With respect to the spring clip mechanism discussed in Lucas, the Lucas
12 spring clip mechanism simply has horizontal portions 11 which the Examiner
13 refers to as ramps and once again, there is no method by which there is an opening
14 in the ramp to receive a tooth from a picket (the Lucas Patent deals with a bedstead
15 and not a fence) to more securely retain the spring clip within the picket and retain
16 the picket within the rail as discussed and claimed in now amended Claim 1 of the
17 present invention. Therefore, the ramp feature of Lucas is totally different.

18 Therefore, it is now respectfully submitted that the claim as now amended is
19 clearly patentable over the disclosure in the Larsen Patent or the Larsen Patent
20 combined with the Lucas Patent. Independent Claim 2 simply adds an additional
21 limitation to Claim 1 and therefore, the arguments concerning Helterbrand are no
22 longer relevant because Claim 1 is now patentable over the Larsen or a
23 combination of Larsen and Helterbrand or a combination of Larsen, Helterbrand
24 and Lucas. Helterbrand was only cited for the purpose of showing the attaching
25 mechanism from the rail to the post. As immediately set forth above, the Lucas
26 Patent is totally different in the nature of the way its transverse portion which the
27 Examiner refers to as a ramp side 11 functions and operates. With respect to the
28 sealing cap in Figure 2, the Gibbs Patent talking about the sealing cap simply adds

1 only another limitation but it is not the key limitation as discussed above which
2 differentiates the present invention from the cited prior art references.

3 Therefore, it is respectfully submitted that amended Claim 1 as now
4 significantly amended is now patentable over all of the cited references and any
5 combination whatsoever and Dependent Claims 2 and 3 which depend from now
6 allowable Independent Claim 1 are also allowable. Therefore, a notice of allowance
7 is respectfully submitted.

8 Respectfully submitted,

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Thomas I. Rozsa

11 Thomas I. Rozsa
12 Registration No. 29,210

13 Customer No. 021907
14 Telephone (818) 783-0990
15 Facsimile (818) 783-0992

16 ROZSA & CHEN LLP
17 15910 Ventura Boulevard, Suite 1601
18 Encino, California 91436-2815

19 I hereby certify that this correspondence
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21 Postal Service as Express Mail in an envelope
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26 THOMAS I. ROZSA
27 Registration No. 29,210

28 Thomas I. Rozsa 05/27/05
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